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FLORIDA DEPARTMENT OF EDUCATION

Frank T. Brogan  
Commissioner of Education

July 16, 1997

VIA FEDERAL EXPRESS

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, DC 20554

Re: Federal-State Joint Board on Universal Service  
CC Docket No. 96-45

Dear Mr. Caton:

Enclosed please find the original and seventeen copies of Petition of Florida Department of Education for Clarification and/or Reconsideration in the above dockets. Please date-stamp one copy and return in the enclosed self-addressed stamped envelope.

Sincerely,

Margaret O'Sullivan Parker  
Assistant General Counsel  
Florida Department of Education  
325 W. Gaines Street  
The Capitol, Suite 1701  
Tallahassee, Florida 32399-0400  
850/488-7707

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON D.C. 20534

In the Matter of:

Federal-State Joint Board  
on Universal Service

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CC DOCKET No. 96-45

PETITION OF FLORIDA DEPARTMENT OF EDUCATION  
FOR CLARIFICATION AND/OR RECONSIDERATION

The Florida Department of Education (FDOE) hereby files this petition for clarification and/or reconsideration of the May 7, 1997 Federal Communications Commission (FCC) order in the above docket (Order FCC 97-15). This petition is filed pursuant to Rule 1.429 of the FCC's regulations.

The FDOE's Florida Information Resource Network (FIRN) electronically links all of Florida's public education entities to computing resources which serve public education. FIRN purchases services and provides an Internet Gateway for the direct use of those services by schools and libraries throughout the state of Florida. FIRN provides electronic pathways and procedures enabling user access to computing services for Florida's public educational community. Funding for FIRN is provided by general revenue appropriations, and administered by FDOE.

A portion of the order acts upon the Telecommunications Act of 1996's directive to provide universal service support to public schools and libraries. The beneficiaries will be eligible for universal service support, up to \$2.25 billion a year, enabling them to receive discounts on telecommunications services, internal connections, and Internet access. This petition addresses the eligibility of a statewide network such as FIRN to receive universal service support.



In Section XIII of the order (Administrative Support Mechanisms), the FCC states that:

[G]overnment entities that purchase telecommunications services in bulk on behalf of themselves, e.g., state networks for schools and libraries, will not be considered "other providers of telecommunications" that will be required to contribute. Such government entities would be purchasing services for local or state governments or related agencies. Therefore, we find that such government agencies serve only their internal needs and should not be required to contribute. (§800)

The FCC clearly concludes that state networks are not required to contribute to the support of universal service. However, the FCC's order is unclear as to whether that same state network is eligible for universal service support.

The order holds that all eligible schools and libraries<sup>1</sup> shall receive discounts pursuant to 47 U.S.C § 254(c)(3) and 47 U.S.C. § 254(h)(1)(b). The order addresses the definition of schools (§ 552, 554), libraries (§552, 558, 560) and library consortia (§560, 561). It permits schools and libraries to participate in consortia with ineligible entities for the purchase of services, provided that only the eligible institution receive the universal service discount. However, the FCC's order is silent as to whether a state educational network which provides statewide access and technical support to the eligible facilities is itself eligible for the discount. FIRN does not fall under the definition of "school" or "library." Nevertheless, a reading of the relevant statute, the order, and the proposed rules attached to the order, lead to the conclusion that school networks should benefit from universal service supports, and that the order should be clarified in that regard.

The intention of the order, to "ensure that eligible schools and libraries have affordable access to modern telecommunications and information services" (§424), encompasses the service

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<sup>1</sup>Defined respectively in Footnote 1087 of the order as "individual schools, school districts, and consortia of schools or school districts" and "individual library branches, library facilities, library systems and library consortia."



provided by FIRN. Through FIRN, teachers, students, and educational officials are able to access the Internet, send and receive e-mail, access state-supported databases, instructional resources and library resources, transmit student transcripts and financial aid information, and participate in numerous other activities. FIRN also provides technical support and assistance to the schools and libraries.

The FCC's rules, as contained in Appendix I of the Order, address the role of state networks. According to Rule 54.501(d)(4), state agencies "may receive discounts on the purchase of telecommunications and information services that they make on behalf of and for the direct use of eligible schools and libraries, as through state networks." (Emphasis added). This supports FDOE's position that a state educational network may receive the discount. However, the order does not contain this language.

Moreover, this rule and the order itself is unclear as to whether the services purchased must be conveyed directly to the schools and libraries, or whether the services can be purchased for the benefit of the eligible entities. FIRN purchases network access and other telecommunication services in order to provide access to schools and libraries across the state. The services are not directly purchased on behalf of the libraries and schools, in the sense of aggregate purchases which are then conveyed to the libraries and schools. However, these services are purchased on behalf of the schools and libraries in the sense that FIRN purchases them and provides electronic access to them.

The order is also unclear as to whether networks such as FIRN could be considered as consortia under Paragraph 483 of the order, as codified in Rule 54.501(d). The order discusses the potential of eligible schools and libraries participating in consortium with governmental entities and health care providers. Telecommunications providers may offer reduced rates to the consortium, but

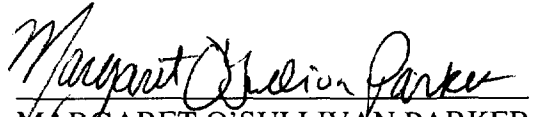


only the eligible schools and libraries may receive the universal service discount. It is unclear whether state educational networks are entitled to universal service under this provision of the order.

FDOE seeks clarification and reconsideration of the order because the FCC's decision makes no provision of service to networks such as FIRN, which provide network service to public schools and libraries so that they may utilize Internet resources. Therefore, FDOE requests that the FCC clarify and/or reconsider its order to include state educational networks such as FIRN in the category of recipients of the discounts set forth in the order.

Respectfully submitted,

MICHAEL H. OLENICK  
GENERAL COUNSEL

A handwritten signature in black ink, appearing to read "Margaret O'Sullivan Parker", is written over a horizontal line.

MARGARET O'SULLIVAN PARKER  
ASSISTANT GENERAL COUNSEL  
FLA. BAR NO. 0894524  
Florida Department of Education  
325 W. Gaines Street  
The Capitol, Suite 1701  
Tallahassee, Florida 32399-0400  
850/488-7707

Attorneys for Florida Department of Education